

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

JUN 9 1998

PATRICK FISHER
Clerk

BOBBY JOHN CHAVEZ,

Plaintiff-Appellant,

v.

GARY JOHNSON, Governor;
TOM UDALL, Attorney General;
BARRY HERTZOG, Compliance
Monitor; LUCILLE VIGIL,
Compliance Monitor; DONNA
MCCORD WILPOLT, Secretary
of Corrections; CATHALEEN
CATANACH, Supervisor-Central
Records Unit; JOE WILLIAMS,
Warden-C.N.M.C.F.; BRENDA
BACA, Records Manager-C.N.M.C.F.,
in their individual and official
capacities,

Defendants-Appellees.

No. 97-2126
(D.C. No. CIV 97-247 MV/LFG)
(D. N.M.)

ORDER AND JUDGMENT *

Before **BALDOCK** , **EBEL** , and **MURPHY** , Circuit Judges.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Bobby John Chavez appeals from the district court's sua sponte dismissal of his civil rights complaint pursuant to 28 U.S.C. § 1915A for failure to exhaust administrative remedies as required by 42 U.S.C. § 1997e. Our jurisdiction arises under 28 U.S.C. § 1291, and we review the district court's ruling de novo. See White v. McGinnis, 131 F.3d 593, 595 (6th Cir. 1997).

On appeal, Mr. Chavez contends that the district court erred in dismissing his complaint because the court should have concluded that exhaustion was futile in light of Mr. Chavez's written notification to defendants of his complaints and their responses. We reject this argument. In enacting the Prison Litigation Reform Act of 1995 (PLRA), Pub. L. No. 104-134, 110 Stat. 1321 (April 26, 1996), Congress specifically required prisoners to exhaust all "administrative remedies as are available." 42 U.S.C. § 1997e(a). To allow Mr. Chavez to bypass these remedies would eviscerate the statute.

The judgment of the United States District Court for the District of New Mexico is AFFIRMED. Plaintiff's motion for leave to file a reply brief, construed as a motion to file such brief out of time, is GRANTED.

Entered for the Court

Michael R. Murphy
Circuit Judge